

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

ZANE B. FRANKS,

Plaintiff,

v.

COOPER TIRE & RUBBER CO.,

Defendant.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 5:07-CV-54

ORDER

Before the Court is Cooper's Motion to Dismiss for Want of Prosecution, pursuant to Federal Rule of Civil Procedure 41(b). Dkt. No. 34. This motion was filed on May 13, 2009. According to Local Rule CV-7(e), Franks' Response to this Motion was due fifteen days thereafter. Before ruling on the merits, the Court ordered a response to the Motion by July 2, 2009. *See* Dkt. No. 36. Yet no response has been filed. Considering the Motion, as allowed by Local Rule CV-7(e), the Court hereby finds the following:

1. On February 13, 2008, the Court determined that a ruling from the Arkansas Worker's Compensation Commission regarding Cooper Tire's status as a "special employer" is necessary before this action can proceed. Dkt. No. 32.
2. On February 20, 2008, the Court administratively closed this case pending a ruling from the Commission. Dkt. No. 33.
3. On May 1, 2008, the Commission closed Franks' case without deciding the "special employer" issue and Franks failed to advise this Court of his actions with the Commission or take any other actions with this Court to advance the prosecution of this matter. *See* Dkt. No. 34, at 3; Dkt. No. 37 (Commission Form AR-4 closing Franks' case).

Based on these findings, Defendant's Motion should be **GRANTED**. Accordingly, this case is hereby **DISMISSED WITH PREJUDICE** pursuant to Rule 41(b).

IT IS SO ORDERED.

SIGNED this 9th day of July, 2009.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE